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| 6 July 2017 |

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| Response form for the Consultation Paper on format and content of the prospectus  |
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| Date: 6 July 2017 |

Responding to this paper

ESMA invites responses to the questions set out throughout this Consultation Paper. Responses are most helpful if they:

1. respond to the question stated;
2. contain a clear rationale; and
3. describe any alternatives ESMA should consider.

ESMA will consider all responses received by 28 September 2017.

Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

1. Insert your responses to the questions in the Consultation Paper in the form “Response form\_Consultation Paper on format and content of the prospectus”, available on ESMA’s website alongside the present Consultation Paper ([www.esma.europa.eu](http://www.esma.europa.eu) 🡪 ‘Your input – Open consultations’ 🡪 ‘Consultation on technical advice under the new Prospectus Regulation’).
2. Please do not remove tags of the type <ESMA\_QUESTION\_FAC\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
3. If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
4. When you have drafted your response, name your response form according to the following convention: ESMA\_FAC\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_FAC\_ABCD\_RESPONSEFORM.
5. Upload the form containing your responses, in Word format, to ESMA’s website ([www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input – Open consultations’ 🡪 ‘Consultation on technical advice under the new Prospectus Regulation’).

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly indicate by ticking the appropriate checkbox on the website submission page if you do not wish your contribution to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA’s rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA’s Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Data protection’.

Who should read this Consultation Paper

This Consultation Paper may be of particular interest to investors, issuers, including issuers already admitted to trading on a regulated market or on a multilateral trading facility, offerors or persons asking for admission to trading on a regulated market as well as to any market participant who is affected by the new Prospectus Regulation.

# General information about respondent

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| --- | --- |
| Name of the company / organisation | AMAFI – Association française des marches financiers |
| Activity | Investment Services |
| Are you representing an association? | YES ☐ |
| Country/Region | France |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_COMMENT\_FAC\_1>

*Association française des marchés financiers* (AMAFI) is the trade organisation working at national, European and international levels to represent financial market participants in France. It acts on behalf of credit institutions, investment firms and trading and post-trade infrastructures, regardless of where they operate or where their clients or counterparties are located. AMAFI’s members operate for their own account or for clients in different segments, particularly organised and over-the-counter markets for equities, fixed-income products and derivatives, including commodities. Nearly one-third of members are subsidiaries or branches of non-French institutions.

For over two years, AMAFI has been paying close attention to progress in the Capital Markets Union (CMU) initiative and, within such initiative, to the proposals which aimed at revising the Prospectus Directive with a view to making it easier and cheaper for companies, and in particular smaller companies, to access capital and improve prospectus accessibility for investors.

Having contributed to the 2015 EC consultation on the review for the Prospectus Directive (*AMAFI / 15-27*), AMAFI is now keen, after the publication of the Prospectus Regulation, to contribute to the three consultations launched by ESMA on 6 July 2017 - until 28 September 2017- on the draft technical advice that it proposes to give to the EC in relation to each one of these consultations. Below is AMAFI’s response to ESMA’s consultation on Format and content of the Prospectus *(ESMA31-62-532).*

<ESMA\_COMMENT\_FAC\_1>

1. : Do you agree with the proposal that cover notes be limited to 3 pages? If not, what do you consider to be an appropriate length limit for the cover note? Could you please explain your reasoning, especially in terms of the costs and benefits implied?

<ESMA\_QUESTION\_FAC\_1>

No, AMAFI disagrees with that proposal for several reasons: the purpose of such cover notes is not clear; the principle of such notes is not provided by level 1 legislation and there is not ground for adding such a requirement at level 2; finally, it could duplicate the information contained in the summary and raise liability issues.

Therefore, cover notes should not be mandatory. The possibility of having cover notes should simply remain a possibility as provided in ESMA’s Q&A § 9 (*ESMA/2016/1674*).

<ESMA\_QUESTION\_FAC\_1>

1. : Would a short section on “how to use the prospectus” make the base prospectus more accessible to retail investors? If so, should it be limited to base prospectuses? Would this imply any material cost for issuers? If yes, please provide an estimate of such cost.

<ESMA\_QUESTION\_FAC\_2>

It is usual practice to have such a section in the base prospectus for retail investors. AMAFI considers that that it would be inappropriate to extend this practice to equity prospectuses for which there is no need for such a section. In addition, it can be noted that the URD, which is likely to be widely used in France, would not, by definition, contain such a section. As a result, this “how to use the prospectus” section in the prospectus may end up being more confusing than helpful.

<ESMA\_QUESTION\_FAC\_2>

1. : Should the location of risk factors in a prospectus be prescribed in legislation or should issuers be free to determine this? If it should be set out in legislation, what positioning would make it most meaningful?

<ESMA\_QUESTION\_FAC\_3>

AMAFI is not opposed to having the location of risk factors in a prospectus prescribed in the legislation, save for URDs (see Question 4 below). This should make it easier for investors and all parties concerned to read and understand the key elements of the prospectus.

<ESMA\_QUESTION\_FAC\_3>

1. : Should the URD benefit from a more flexible order of information than a prospectus?

<ESMA\_QUESTION\_FAC\_4>

AMAFI considers that the URD should benefit from a more flexible order of information than a prospectus because a URD is also a communication tool for the issuers who can choose the way and the order in which they will present the elements to be included in the URD. AMAFI fully agrees with ESMA’s position expressed in § 27 of the CP. Indeed, for as long as a cross reference list is provided, it is important to allow issuers to disclose information in an order and format that can be adapted, depending on the type of issuer and securities.

<ESMA\_QUESTION\_FAC\_4>

1. : Would a standalone and prominent use of proceeds section be welcome for investors?

<ESMA\_QUESTION\_FAC\_5>

Yes, AMAFI considers that a standalone and prominent “use of proceeds” section would be welcome. It already exists in the share securities note and in the base prospectus.

<ESMA\_QUESTION\_FAC\_5>

1. : Is the list of “additional information” in Article XXI of the Commission Regulation fit for purpose? What other types of additional information should be included in a replacement annex?

<ESMA\_QUESTION\_FAC\_6>

Yes, but it would also be appropriate to add an item in Annex XXI to include specific listing disclosures

<ESMA\_QUESTION\_FAC\_6>

1. : Are the definitions proposed to be carried over to the new regime, and new definitions proposed adequate? Should any additional definitions be added?

<ESMA\_QUESTION\_FAC\_7>

AMAFI agrees with the proposal to carry the existing definitions over to the new regime.

Regarding the definition of “debt securities” in Article A (d), AMAFI assumes and understands it covers debt securities for which the interest is capitalised and paid at the same time as the principal debt, such as, for instance, “the zero coupon bonds”.

<ESMA\_QUESTION\_FAC\_7>

1. : What is the overall impact of the above technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that the proposed technical advice will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_8>

As a professional organisation, AMAFI is unable to respond to this question.

<ESMA\_QUESTION\_FAC\_8>

1. : Do you agree that the scope of NCA approval should be included in the cover note? If not, please provide your reasoning.

<ESMA\_QUESTION\_FAC\_9>

AMAFI considers that it is not appropriate to provide for mandatory cover notes (please see our response to Question 1 above).

Having said that, on prospectuses approved by the French authority (AMF), a specific wording appears on the front page stating that the AMF has delivered a visa n°…on the said prospectus which has been prepared by the issuer and is the responsibility of the persons whose signatures appear therein. It further specifies that such approval has been given after verification of the completeness, comprehensibility and consistency of the information given in the draft prospectus and that it does not imply approval of the appropriateness of the transaction or authentication of the accounting and financial elements presented. This wording could/should be maintained in the future. AMAFI considers that there is no need for anything further than that

<ESMA\_QUESTION\_FAC\_9>

1. : Do you agree that the requirement for issuers of equity and retail non-equity to include selected financial information in the prospectus can be removed without significantly altering the benefits to investors?

<ESMA\_QUESTION\_FAC\_10>

AMAFI agrees with that proposal, in particular as prospectuses for equity and retail non-equity will always include a summary and that summary will contain a selection of historical key financial information

<ESMA\_QUESTION\_FAC\_10>

1. : Do you agree that issuers should be required to include their website address in the prospectus? Do you agree that issuers should be required to make documents on display electronically available? Would these requirements imply any material additional costs to issuers?

<ESMA\_QUESTION\_FAC\_11>

AMAFI agrees that issuers should be required to include their website address in the prospectus and make documents on display electronically available. In a limited number of cases, this may require certain adjustments for small issuers, but in the end, it should be far less burdensome and costly for them

<ESMA\_QUESTION\_FAC\_11>

1. : Do you consider that a description of material past investments is necessary information for the purpose of the prospectus?

<ESMA\_QUESTION\_FAC\_12>

AMAFI considers that a description of material past investments is necessary.

<ESMA\_QUESTION\_FAC\_12>

1. : Do you agree with the proposal to align the OFR requirement with the management reports required under the Accounting Directive? Would this materially reduce costs for issuers?

<ESMA\_QUESTION\_FAC\_13>

AMAFI agrees with the proposed alignment which should reduce costs for issuers.

<ESMA\_QUESTION\_FAC\_13>

1. : Do you agree with ESMA’s proposal to require outstanding profit forecasts for both equity and non-equity issuance to be included? Do you agree with the deletion of the obligation to include an accountant’s or an auditor’s report for equity and retail non-equity? Please provide an estimate of the benefits for the issuers arising from the abovementioned proposals. Would these requirements significantly affect the informative value of the prospectus for investors?

<ESMA\_QUESTION\_FAC\_14>

Please note that AMAFI is not in a position to respond to this question for non-equity issuances. Therefore please consider that **the response below concerns exclusively equity issuances**.

AMAFI is fully aware of the pros and cons of requiring the inclusion of profit forecasts in the prospectus together or without an auditor’s report on such forecasts.

For AMAFI, there is no doubt that outstanding profit forecasts should be included in the prospectus. As to the auditor’s report, unlike for EU Growth prospectuses for which the cost of requiring an auditor’s report is a major concern for the small and medium size issuers concerned (see AMAFI’s response to Question 7 of the CP on the EU Growth Prospectus), AMAFI considers that for “regular” issuers (outside the scope of the EU Growth Prospectus), this is not an incommensurable requirement. And on the other hand, it is a requirement that can be very beneficial to investors, for their information and protection, and it can therefore contribute to the success of the operation for the issuer.

Consequently, AMAFI disagrees with ESMA’s proposal, regarding the proposed deletion of the obligation to include an accountant’s or an auditor’s report **for equity issuances**.

<ESMA\_QUESTION\_FAC\_14>

1. : Do you agree with the proposal to explain any ‘emphasis of matter’ identified in the audit report?

<ESMA\_QUESTION\_FAC\_15>

No, AMAFI does not agree with that proposal. In the audit report, the point raised by the auditor is explained. There is no need - and furthermore it would be inappropriate - for the issuer to add any comment to the auditor’s statement and explanations.

<ESMA\_QUESTION\_FAC\_15>

1. : Should there be mandatory disclosure of the size of shareholdings pre and post issuance where a major shareholder is selling down? Would this requirement imply any material additional costs to issuers?

<ESMA\_QUESTION\_FAC\_16>

AMAFI supports this proposal which is already standard practice in France. It seems important however to add some language to make it clear that the disclosure requirements in that respect (i.e. the different scenarios to be disclosed) should be proportionate and reasonable.

<ESMA\_QUESTION\_FAC\_16>

1. : Do you consider that the new requirement to disclose potential material impacts on the corporate governance would provide valuable information to investors?

<ESMA\_QUESTION\_FAC\_17>

Yes, AMAFI considers that this new requirement would provide valuable information to investors. In fact, it is even surprising that this requirement is not yet applicable.

<ESMA\_QUESTION\_FAC\_17>

1. : Do you agree with the proposal to clarify the requirement for restated financial information?

<ESMA\_QUESTION\_FAC\_18>

AMAFI would agree with the proposal to have one full set of financial statements (instead of having two years’ financial information) which is consistent with the next financial statements (taking into account that such financial statement would also have the comparative figures for the previous second year). In the case of IPOs, it is generally useful, for marketing reasons, to have three years of financial statements and for that reason, issuers doing an IPO are often advised to produce three years of financial statements but there is no need to include that in legislation.

<ESMA\_QUESTION\_FAC\_18>

1. : Do you agree with the lighter requirement in relation to replication of the issuer’s M&A in the prospectus? Would this significantly affect the informative value of the prospectus for investors?

<ESMA\_QUESTION\_FAC\_19>

AMAFI agrees with that proposal

<ESMA\_QUESTION\_FAC\_19>

1. : Should any further changes be made to the share registration document? Please advise of any costs and benefits implied by the further changes you propose.

<ESMA\_QUESTION\_FAC\_20>

No.

<ESMA\_QUESTION\_FAC\_20>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_21>

As a professional organisation, AMAFI is unable to respond to this question

<ESMA\_QUESTION\_FAC\_21>

1. : Do you consider that the requirement for a working capital statement should be different in the case of credit institutions and insurance companies?

<ESMA\_QUESTION\_FAC\_22>

Yes, the requirement for a working capital statement could be different in the case of credit institutions and insurance companies, although it may be necessary to provide for differences also between these two categories. AMAFI however cannot comment further on this as ESMA does not clearly indicate what those differences might be.

<ESMA\_QUESTION\_FAC\_22>

1. : Do you agree that issuers should be required to update their capitalisation and indebtedness table if there are material changes within the 90 day period? Would this imply any material additional cost to issuers? If yes, please provide an estimation.

<ESMA\_QUESTION\_FAC\_23>

Yes, AMAFI agrees with that proposal which seems legitimate, provided that such request applies only in the case of “material change”.

<ESMA\_QUESTION\_FAC\_23>

1. : Do you consider the changes to dilution requirements would be helpful to investors at the same time as being feasible to provide for issuers?

<ESMA\_QUESTION\_FAC\_24>

Yes, AMAFI agrees with that proposal, provided, as mentioned above (see Question 16) that the requested disclosure be reasonable and proportionate, failing which it will be too costly/complex for the issuer and it might even not be helpful to investors if the information provided is too complicated and envisage an exaggerate number of scenarios.

AMAFI would also like to suggest a modification of item 9.1, as mentioned below, in order to make it clearer and to reflect the fact that the proposed comparison only makes sense if it takes into account the situation of one shareholder which does not participate in the operation and not the situation of all the shareholders.

Proposed modification:

9.1 *A comparison of:*

1. *Participation in share capital and voting rights of* ***an*** *existing shareholder~~s~~ before and after the capital increase resulting from the public offer, with the assumption that* ***such*** *existing shareholder~~s~~ do****es*** *not subscribe for the new shares; and*
2. *The net asset value…….. that public offer.*

<ESMA\_QUESTION\_FAC\_24>

1. : Do you agree that the information solicited by item 9.2 is important for investors?

<ESMA\_QUESTION\_FAC\_25>

Yes, AMAFI considers that this information is important for investors. It is already required in France to provide such information.

<ESMA\_QUESTION\_FAC\_25>

1. : Do you consider that any further changes be made to the equity securities note? Please advise of any costs and benefits that would be incurred by the further changes you propose.

<ESMA\_QUESTION\_FAC\_26>

AMAFI suggests amending the first sentence of article 5.3.1 regarding Pricing to specify that the requirement to indicate the amount of expenses and taxes charged to the subscriber or purchaser can only refer to the expenses charged by the issuer or the offeror.

Therefore, the first sentence should be amended as follows:

“*An indication of the price at which the securities will be offered and the amount of any expenses and taxes charged to the subscriber or purchaser* ***by the issuer or offeror”****.*

<ESMA\_QUESTION\_FAC\_26>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_27>

As a professional organisation, AMAFI is unable to respond to this question.

<ESMA\_QUESTION\_FAC\_27>

1. : Do you agree with the proposal to delete disclosure on principal investments and replace this with a requirement to provide details on the issuer’s funding structure and borrowing requirements? Would this significantly affect the informative value of the prospectus for investors?

<ESMA\_QUESTION\_FAC\_28>

Yes.

<ESMA\_QUESTION\_FAC\_28>

1. : Do you agree that an issuer of retail non-equity should be required to include a credit rating previously assigned to it in the prospectus?

<ESMA\_QUESTION\_FAC\_29>

Yes.

<ESMA\_QUESTION\_FAC\_29>

1. : Do you agree with the proposal to remove the requirement for profit forecasts and estimates to be reported on? Would this significantly affect the informative value of the prospectus for investors?

<ESMA\_QUESTION\_FAC\_30>

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<ESMA\_QUESTION\_FAC\_30>

1. : Do you agree with the proposal that outstanding profit forecasts and estimates should be included in the registration document?

<ESMA\_QUESTION\_FAC\_31>

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<ESMA\_QUESTION\_FAC\_31>

1. : Do you agree with the deletion of the disclosure requirement related to board practices? Would this significantly affect the informative value of the prospectus for investors?

<ESMA\_QUESTION\_FAC\_32>

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<ESMA\_QUESTION\_FAC\_32>

1. : Do you consider that any further changes should be made to the retail debt and derivatives registration document? Please advise of any costs and benefits that would be incurred by the further changes you propose.

<ESMA\_QUESTION\_FAC\_33>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_33>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_34>

As a professional organisation, AMAFI is unable to respond to this question.

<ESMA\_QUESTION\_FAC\_34>

1. : Do you agree with the removal of the requirement for wholesale non-equity issuers to restate their financial statements? Would this significantly affect the informative value of the prospectus for investors?

<ESMA\_QUESTION\_FAC\_35>

Yes.

<ESMA\_QUESTION\_FAC\_35>

1. : Do you consider that any further changes be made to the wholesale debt and derivatives registration document? Please advise of any costs and benefits that would be incurred by the further changes you propose.

<ESMA\_QUESTION\_FAC\_36>

No.

<ESMA\_QUESTION\_FAC\_36>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_37>

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<ESMA\_QUESTION\_FAC\_37>

1. : Do you agree with the way in which disclosure on taxation has been reduced? Would this significantly affect the informative value of the prospectus for investors?

<ESMA\_QUESTION\_FAC\_38>

In principle, AMAFI supports the proposed reduction, with two limits however:

* the first one concerns the requirement to include a summarized description of the “specific tax regime” which an investment may entail. If this requirement were to be maintained, this notion of “specific tax regime” should be clearly explained. This notion is not clear enough and in the end, this may affect the effectiveness of the proposed simplification as regards tax disclosures;
* the second limit is that the warning could be interpreted as a “risk” with the consequences attached to that interpretation. Therefore, AMAFI suggest replacing the word “warning” by a more neutral word such as “*an indication*” or “*a statement indicating that…*”.

<ESMA\_QUESTION\_FAC\_38>

1. : Do you consider there are any negative consequences of the requirement to make details on representation of security holders available electronically and free of charge? Would this imply any material additional costs to issuers? If yes, please provide an estimation.

<ESMA\_QUESTION\_FAC\_39>

In France, these details are included in the terms of conditions of prospectuses and therefore, they are already made available to security holders.

<ESMA\_QUESTION\_FAC\_39>

1. : Do you consider that expenses charged to the purchaser should also include implicit costs i.e. those costs included in the price (item 5.3.1)?

<ESMA\_QUESTION\_FAC\_40>

No, AMAFI considers that this is unrealistic.

<ESMA\_QUESTION\_FAC\_40>

1. : Do you agree with the proposal that the issue price of the securities to be included in the prospectus in the case of an admission to trading?

<ESMA\_QUESTION\_FAC\_41>

Yes, AMAFI agrees with that proposal.

<ESMA\_QUESTION\_FAC\_41>

1. : Do you consider that any further changes be made to the retail debt and derivatives securities note? Please advise of any costs and benefits that would be incurred by the further changes you propose.

<ESMA\_QUESTION\_FAC\_42>

AMAFI noticed that the item “type of securities” has been moved from category B to A. It would be necessary to understand what additional type of information is expected.

<ESMA\_QUESTION\_FAC\_42>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_43>

As a professional organisation, AMAFI is unable to respond to this question.

<ESMA\_QUESTION\_FAC\_43>

1. : Do you consider that any further changes be made to the wholesale debt and derivatives securities note? Please advise of any costs and benefits that would be incurred by the further changes you propose.

<ESMA\_QUESTION\_FAC\_44>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_44>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_45>

As a professional organisation, AMAFI is unable to respond to this question.

<ESMA\_QUESTION\_FAC\_45>

1. : Do you agree with the proposal to make derivate disclosures a building block?

<ESMA\_QUESTION\_FAC\_46>

Yes, AMAFI agrees with that proposal.

<ESMA\_QUESTION\_FAC\_46>

1. : Do you agree with the proposal to reclassify the how the return on derivatives take place from B to A? If not, please explain why.

<ESMA\_QUESTION\_FAC\_47>

AMAFI disagrees with this proposal, the implementation of which might be costly without any significant value to such change. In additions, since pay-offs used under structured programmes are already fully disclosed in the base prospectus, it is unclear what additional disclosure is expected. Clarification on this point from ESMA appears necessary.

<ESMA\_QUESTION\_FAC\_47>

1. : Do you consider agree with ESMA’s proposals to enhance the disclosure in relation to situations where investors may lose all or part of their investment?

<ESMA\_QUESTION\_FAC\_48>

No, AMAFI does not agree with ESMA’s proposal. What is proposed seems too complex and burdensome. It is likely to make the prospectus longer which is not the general objective of the new prospectus legislation.

In particular, for structured programmes, it is not possible to provide this level of disclosure since on the approval date of base prospectuses, if the type of underlying that will be used (i.e. shares, indices…) is known, it is not yet the case, for instance, for the issuer of the underlying shares and therefore it is not possible to provide information on such issuer. Indeed, the underlying shares used for the issue will be determined at the time of the issue under the programme and will be set out in the final terms.

In addition, if issuers of these underlyings were to be described in the base prospectus, issuers would have to prepare supplements each time there is a new material information affecting the issuers of these underlyings. This would be very cumbersome for issuers.

The fact that this level of information is required for asset backed securities is relevant but this is not the case for derivative securities.

This type of information should be left to the marketing documentation.

<ESMA\_QUESTION\_FAC\_48>

1. : Do you consider that the requirements should be different where the return of the investment is linked to the credit of other assets (i.e. credit linked securities) than where the return is linked to the value of a security?

<ESMA\_QUESTION\_FAC\_49>

No, please refer to AMAFI’s answer to Question 48. It is not possible in the base prospectus to already set out reference obligations of the credit linked securities and their issuers. This information can only be known on the issue date.

<ESMA\_QUESTION\_FAC\_49>

1. : Do you consider that any further changes be made to the derivatives securities building block? Please advise of any costs and benefits that would be incurred by the further changes you propose.

<ESMA\_QUESTION\_FAC\_50>

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<ESMA\_QUESTION\_FAC\_50>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_51>

As a professional organisation, AMAFI is unable to respond to this question.

<ESMA\_QUESTION\_FAC\_51>

1. : Do you agree with the proposed amendments to the annex relating to the underlying share?

<ESMA\_QUESTION\_FAC\_52>

AMAFI agrees with the proposed amendments which are already in effect in France, except as regards item 1.11 in respect of which it has two observations:

The first one is that the language of a) of item 1.11 should be modified, as mentioned below, in order to make it clearer and to reflect the fact that what is proposed only makes sense if it takes into account the situation of one shareholder which does not participate in the operation and not the situation of all the shareholders

The second observation is that for equity-linked products, the dilution calculation on the basis of the net asset value per share makes no sense. Therefore the b) paragraph should be deleted.

Consequently, it is proposed to modify item 1.11 as follows:

Proposed modification:

1.1 *~~A comparison of:~~*

1. *Participation in share capital and voting rights of* ***an*** *existing shareholder~~s~~ before and after the capital increase resulting from the public offer, with the assumption that* ***such*** *existing shareholder~~s~~ do****es*** *not subscribe for the new shares; ~~and~~*
2. *~~The net asset value per share as of the date of the latest balance before the public offer (selling offer and / or capital increase) and the offering price per share within that public offer.~~*

<ESMA\_QUESTION\_FAC\_52>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_53>

As a professional organisation, AMAFI is unable to respond to this question.

<ESMA\_QUESTION\_FAC\_53>

1. : Do you agree that the annex for third countries and their regional and local authorities should remain unchanged (with the exception of the reference to Member States)?

<ESMA\_QUESTION\_FAC\_54>

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<ESMA\_QUESTION\_FAC\_54>

1. : Do you agree with the proposal relating to the asset backed securities registration document?

<ESMA\_QUESTION\_FAC\_55>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_55>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_56>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_56>

1. : Do you agree with the proposal relating to the asset backed securities building block?

<ESMA\_QUESTION\_FAC\_57>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_57>

1. : Do you agree with the proposal to allow reduced disclosure where the securities comprising the assets are listed on an SME Growth Market?

<ESMA\_QUESTION\_FAC\_58>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_58>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_59>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_59>

1. : Do you agree with the amendments to the pro forma building block? Should any further amendments be made to this annex? Please advise of any costs and benefits implied by the further changes you propose.

<ESMA\_QUESTION\_FAC\_60>

AMAFI agrees with the proposed amendments.

<ESMA\_QUESTION\_FAC\_60>

1. : Do you agree that the additional building block for guarantees does not need to change other than the minor amendments proposed by ESMA?

<ESMA\_QUESTION\_FAC\_61>

AMAFI agrees that the additional building block for guarantees does not need any further change

<ESMA\_QUESTION\_FAC\_61>

1. : Do you think that depository receipts are similar enough to equity economically to require the inclusion of a working capital statement and / or a capitalisation and indebtedness statement? Please advise of any costs and benefits that would be incurred as a result of this additional disclosures.

<ESMA\_QUESTION\_FAC\_62>

AMAFI cannot disagree with this analysis and, in consequence, with the requirement of a working capital statement and / or a capitalisation

<ESMA\_QUESTION\_FAC\_62>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_63>

As a professional organisation, AMAFI is unable to respond to this question.

<ESMA\_QUESTION\_FAC\_63>

1. : Do you agree with the changes proposed by ESMA for collective investment undertakings?

<ESMA\_QUESTION\_FAC\_64>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_64>

1. : Is greater alignment with the requirements of AIFMD necessary? If so, where?

<ESMA\_QUESTION\_FAC\_65>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_65>

1. : Do you agree with the proposal to allow reduced disclosure where the securities issued by the underlying issuer/collective investment undertaking/counterparty are listed on an SME Growth Market?

<ESMA\_QUESTION\_FAC\_66>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_66>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_67>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_67>

1. : Do you consider that any changes are required to the existing regime for convertible and exchangeable securities? If so, please specify.

<ESMA\_QUESTION\_FAC\_68>

AMAFI considers that no changes other than those proposed are required regarding convertible and exchangeable securities.

<ESMA\_QUESTION\_FAC\_68>

1. : Do you consider that any other types of specialist issuers which should be added? If so, please specify.

<ESMA\_QUESTION\_FAC\_69>

AMAFI disagrees with the proposed replacement of the notion of “*Companies with less than three years of existence”* by that of *“Start-up companies”,* the latter being a notion which is far more difficult to understand than the former. Explanations concerning all categories of “*specialist issuers*” should be given at Level 2.

<ESMA\_QUESTION\_FAC\_69>

1. : Do you agree with ESMA’s proposal not to develop a schedule for securities issued by public international bodies and for debt securities guaranteed by a Member State of the OECD?

<ESMA\_QUESTION\_FAC\_70>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_70>

1. : Do you agree that the URD disclosure requirements should be based on the share registration document plus additional disclosure items?

<ESMA\_QUESTION\_FAC\_71>

AMAFI agrees with that proposal.

First of all, AMAFI considers that the URD can be a very useful tool for certain issuers who want to seize market opportunities and be in a position to complete a transaction rapidly.

Secondly, the URD is also, generally speaking, a communication tool for issuers (please refer to AMAFI’s response to Question 4) who should therefore benefit from a more flexible order of information than a prospectus and be able to choose the way and the order in which they will present the elements to be included in the URD. AMAFI fully agrees with ESMA’s position expressed in § 27 of the CP. Indeed, for as long as a cross reference list is provided, it is important to allow issuers, in the URD, to disclose information in an order and format that can be adapted depending on the type of issuer and securities.

<ESMA\_QUESTION\_FAC\_71>

1. : Should the URD schedule contain any further disclosure requirements?

<ESMA\_QUESTION\_FAC\_72>

No

<ESMA\_QUESTION\_FAC\_72>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_73>

As a professional organisation, AMAFI is unable to respond to this question.

<ESMA\_QUESTION\_FAC\_73>

1. : Do you consider that the proposed disclosure is sufficiently alleviated compared to the full regime? If not, where do you believe that additional simplification can be made? Please advise of any costs and benefits implied by the further changes you propose.

<ESMA\_QUESTION\_FAC\_74>

AMAFI strongly disagrees with the proposal in § 13.1 (explained in § 245 of the CP) to have *“a summary… presented in an easily analysable, concise and comprehensible form and shall not be a replication of information already published under Regulation (EU) N) 596/2014”.* Furthermore, it is specified in § 245 of the CP that *“The summary shall not consist of simply a list of disclosures or links thereto and only MAR disclosures that are relevant to a particular offer shall be summarized”.*

AMAFI considers that this requirement is far too burdensome. It should be possible to simply give a list of disclosures already made with links giving access to such information. Requiring a specific summary goes against the objective of simplification.

<ESMA\_QUESTION\_FAC\_74>

1. : Should secondary disclosure differ depending on whether the issuer is listed on a regulated market or on an SME Growth Market?

<ESMA\_QUESTION\_FAC\_75>

No, there is no reason to make a difference depending on whether the issuer is listed on a regulated market or an SME Growth Market, as the issuer in both cases is subject to both the Transparency Directive and MAR. In addition, making such a difference would complicate significantly the disclosure process.

<ESMA\_QUESTION\_FAC\_75>

1. : Do you consider that item 9.3 (information on corporate governance) is necessary?

<ESMA\_QUESTION\_FAC\_76>

Information on corporate governance appears in item 8.3. AMAFI agrees with the proposal (and also with what is proposed in item 9.3).

<ESMA\_QUESTION\_FAC\_76>

1. : Do you consider that information on material contracts is necessary for secondary issuance?

<ESMA\_QUESTION\_FAC\_77>

Information on material contracts should already appear in Section 5 (Business overview) and / or in Section 13 (Regulatory Disclosures). Having regard to the objective of alleviating prospectuses for secondary issuances, it does not seems necessary to have a specific item dedicated to material contracts.

<ESMA\_QUESTION\_FAC\_77>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_78>

As a professional organisation, AMAFI is unable to respond to this question

<ESMA\_QUESTION\_FAC\_78>

1. : Do you consider that there is further scope for alleviated disclosure in the securities note ? Please advise of any costs and benefits implied by the further changes you propose.

<ESMA\_QUESTION\_FAC\_79>

No.

<ESMA\_QUESTION\_FAC\_79>

1. : Is a single securities note, separated by security type, clear or would it be preferable to have multiple securities note schedules?

<ESMA\_QUESTION\_FAC\_80>

AMAFI is in favour of having a single securities note, separated by security type, which is likely to give a clear and more understandable information.

<ESMA\_QUESTION\_FAC\_80>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_81>

As a professional organisation, AMAFI is unable to respond to this question.

<ESMA\_QUESTION\_FAC\_81>